

REMARKS

Claims 1-8 were rejected. Claims 1 and 4 are amended. No new matter is added. Claims 1-8 are now pending. The above amendments and the following remarks are considered by Applicants to overcome each rejection raised by the Examiner and to place the application in condition for allowance.

I. OBJECTION TO THE DRAWINGS UNDER 37 C.F.R. § 1.83(A)

On page 2 of the current Office action, the Examiner has objected to the drawings under 37 C.F.R. § 1.83(a). In particular, the Examiner asserts that the drawings must show the elements of dependent claim 4. Applicants have amended claim 4 to provide that “a damping element is constructed in front of the diaphragm or in the first opening.” As previously discussed, Fig. 6 shows a damping element constructed “in the first opening.” Fig. 7 shows the damping element DE constructed “in front of diaphragm” D. Accordingly, Applicants respectfully request withdrawal of the objection.

II. REJECTION OF CLAIMS 1-6 UNDER 35 U.S.C. § 102(B) BASED ON BAUMHAUER

On page 3 of the current Office Action, the Examiner rejects claims 1-4 pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,226,076 to Baumhauer (“Baumhauer”). These rejections are respectfully traversed and believed overcome in view of the following discussion.

Baumhauer discloses first-order gradient microphones that measure the differential pressure on opposite sides of the diaphragm. This can be influenced by providing an acoustic resistance at one of the sound ports (column 4:55-59).

Baumhauer’s first-order gradient microphones, however, work on a completely different technical principle from the claimed condenser microphone. Among other things,

Baumhauer does not disclose “a second inlet in at least one second opening arranged substantially perpendicular to the second surface of the first diaphragm,” as required by amended independent claim 1. Rather, Baumhauer’s purported second opening (201, 301) is parallel to and facing its diaphragm (203, 303). (*See Figures 2 and 3.*) Thus, Baumhauer does not disclose each limitation of independent claim 1, and therefore Applicants respectfully request withdrawal of the anticipation rejection of claim 1 and dependent claims 2-4.

III. REJECTION OF CLAIMS 5-7 UNDER 35 U.S.C. § 103(A) BASED ON BAUMHAUER

On page 4 of the current Office Action, the Examiner rejects claims 5-7 under 35 U.S.C. § 103(a) as being unpatentable over Baumhauer. This rejection is respectfully traversed and believed overcome in view of the following discussion.

Claims 5-7 depend from independent claim 1. As claim 1 is allowable, so must be claims 5-7. Therefore, Applicant respectfully requests that the Examiner remove the rejection of claims 5-7 under 35 U.S.C. § 103(a) as being unpatentable over Baumhauer.

IV. REJECTION OF CLAIMS 1-4 AND 7-8 UNDER 35 U.S.C. § 103(A) BASED ON ANDERSON AND BAUMHAUER

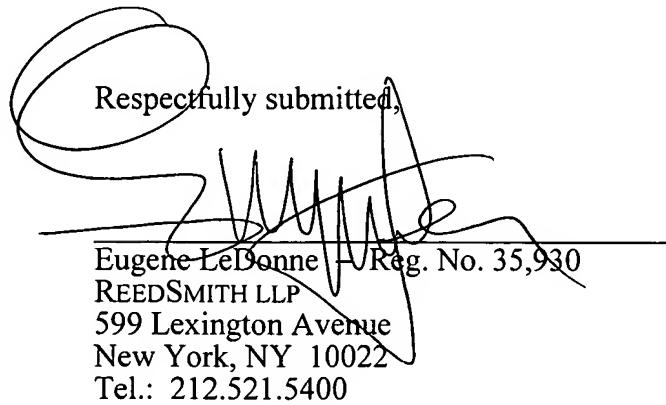
On page 5 of the current Office Action, the Examiner rejects claims 1-4 and 7-8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,282,245 to Anderson (“Anderson”) in view of Baumhauer. This rejection is respectfully traversed and believed overcome in view of the following discussion.

Anderson discloses a bi-directional noise canceling microphone comprising a detector for detecting acoustic signals centrally positioned within a tubular member that has flared entries. But similar to Baumhauer, Anderson does not disclose “a second inlet in at least one second opening arranged substantially perpendicular to the second surface of the first

diaphragm," as required by amended independent claim 1. Anderson's purported second inlet and opening (201, 301) are parallel to its diaphragm (106). (See Figures 6 and 7.) Further, it would not have been obvious to add this teaching to the teachings of Anderson and Baumhauer, as both references teach away from such an alignment. For these reasons, Applicants respectfully submit that the Examiner has not established a prima facie case of obviousness of independent claim 1, and therefore Applicants respectfully request withdrawal of the obviousness rejection of claim 1 and dependent claims 2-4 and 7-8.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,



Eugene LeDonne Reg. No. 35,930
REEDSMITH LLP
599 Lexington Avenue
New York, NY 10022
Tel.: 212.521.5400

ED:JM

500593.20069